UNITED NATIONS

General Assembly

FIFTY-FIRST SESSION

Official Records

SIXTH COMMITTEE
44th meeting
held on
Wednesday, 20 November 1996
at 10 a.m.
New York

SUMMARY RECORD OF THE 44th MEETING

Chairman: Mr. ESCOVAR-SALOM (Venezuela)

CONTENTS

AGENDA ITEM 145: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued)

ORGANIZATION OF WORK

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of the publication* to the Chief of the Official Records Editing Section, room DC2-794, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

Distr. GENERAL
A/C.6/51/SR.44
22 August 1997
ENGLISH
ORIGINAL: SPANISH

The meeting was called to order at 10.05 a.m.

AGENDA ITEM 145: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued) (A/51/278 and Add.1; A/C.6/51/L.6)

1. Mr. SAYUTI (Singapore), speaking on behalf of Brunei Darussalam, Indonesia, Malaysia, the Philippines, Thailand and Viet Nam, the States members of the Association of South-east Asian Nations (ASEAN), said that the end of the cold war had brought with it hopes for a new international order based on the rule of law and peaceful coexistence and cooperation, as well as equal rights and obligations of States. Nevertheless, collective and sustained efforts should be exerted to encourage the progressive development of international law and its codification in such areas as disarmament, peaceful settlement of regional disputes, the environment, socio-economic development and the promotion of South-South cooperation. It was essential to resolve those economic, social and ecological questions which had assumed paramount importance.

2. Among activities carried out during the United Nations Decade of International Law, he drew particular attention to the programme of computerization of multilateral treaties deposited with the Secretary-General and the United Nations Treaty Series.

3. Within the framework of the Decade and the general promotion of peace and security, ASEAN, together with Cambodia, Myanmar and the Lao People's Democratic Republic, had taken the initiative to establish through a treaty the South-east Asia Nuclear-Weapon-Free Zone. That was an important contribution to the progressive development of international law in the area of disarmament. ASEAN also supported the idea of establishing cooperation among nuclear-weapon-free zones in the Southern Hemisphere, which would include the African, South Pacific, Latin American and South-east Asian regions.

4. ASEAN strongly supported the principle of peaceful settlement of disputes as provided in the Charter of the United Nations. In line with the Charter and the purposes of the Decade, several ASEAN member countries had agreed to submit some matters to the International Court of Justice. He recognized the efforts of Indonesia during the forty-ninth session of the General Assembly, and of Malaysia during the current session, in connection with the advisory opinion of the International Court of Justice on the legality of the threat of use of nuclear weapons.

5. The member countries of ASEAN, which had always supported the promotion of the rule of law and relations of friendship and mutual cooperation among all nations based on respect for sovereignty, territorial integrity and non-interference, had organized a number of courses, workshops and seminars on international law with the participation of scholars, legal practitioners, diplomats and international law experts. Their universities and institutions offered courses not only on basic international law, but also specialized courses in law of the sea, human rights, humanitarian law, environmental law and diplomatic law. One such institution, the Malaysian Institute of Diplomacy and Foreign Relations, was open to diplomats from developing countries and ASEAN members.

6. Recently Brunei Darussalam and Viet Nam, in collaboration with UNICEF, had successfully organized a seminar on the implementation of the Convention on the Rights of the Child for participants from ASEAN and other Asian countries. The Philippines would co-sponsor with the Asian-African Legal Consultative Committee and the Office of the United Nations High Commissioner for Refugees an international seminar on the treatment of refugees, to be held in Manila in December 1996.

7. Ms. CUETO MILIÁN (Cuba) said that the United Nations Decade of International Law offered an opportunity to reflect on the importance States placed on international law. Compliance with international law, as an instrument of foreign policy, strengthened relations of mutual respect and cooperation between States and the principal actors in international affairs. Despite attempts to redefine the foundations of the legally binding nature of the basic norms and principles of international law, intensified by the changes which had occurred in international relations, the relevance and legitimacy of those principles remained valid.

8. It was not possible to advocate the rule of law in international relations while at the same time pretending to be unaware that the world, although interdependent, was also diverse in political thought and legal doctrines. It was paradoxical that the globalization that was being promoted was accompanied by growing regionalism; interdependence was an important factor, but sovereignty, territorial integrity and self-determination remained immutable principles for all States.

9. Her delegation was ready to participate in the consideration of the topics raised by several delegations as new priorities for the Decade, but it believed that the main objectives of the Decade, which were of unquestionable validity, should not be subject to selective analysis and implementation. The strengthening of the peaceful settlement of disputes and the search for new international judicial organs were just as important and current as the progressive development and codification of international environmental law and humanitarian law. It would be unacceptable to weaken the scope and application of the norms of international humanitarian law in an era when internal conflicts were being exacerbated by international intervention, at an alarming human, material and financial cost.

10. The promotion of international peace and security was directly linked to unqualified observance of the norms of international law. Decisions motivated by political and hegemonic interests taken by any principal organ of the United Nations would not be legitimate, just and consistent unless the opinions of the system's competent legal bodies were taken into account.

11. Interesting proposals had been submitted to the Working Group on the Decade, which the Cuban delegation was prepared to support. However, the end of the Decade must represent a beginning and not the end, forced by the Organization's financial crisis, of work which the United Nations should complete in fulfilment of an ongoing commitment.

12. Selective and politically motivated interpretations of international law had been applied to Cuba on many occasions, and it saw the Decade as a platform

from which it had been able to appeal to the international community, which had responded quite favourably and energetically. It would be deplorable if the Organization were to put aside the goal of the promotion, codification, study and dissemination of international law. In the future, the Sixth Committee should consider ways and means of building a world in which the principles of sovereignty, territorial integrity, national independence, sovereign equality and non-interference in the internal affairs of States were respected without impediments or restrictions.

13. Mr. SIDOROV (Russian Federation) said that the United Nations Decade of International Law was helping to strengthen the authority of international law as the foundation of law and order; that was a historic accomplishment of the United Nations. Recognition of the universality of the principles and norms of international law was increasing, as was the scope of the international relations which they regulated. In a world freed from the scourge of super-Power confrontation, it was essential to achieve promptly the effective implementation of the norms of international law and recognition of their binding nature for all members of the international community. Collaborative actions in that area, no longer dominated by ideologies and politics, were bringing about a growing understanding of the interdependence of world events and a desire to strike a balance of interests. The Decade would contribute to the development of those objectives and to strengthening the role of international law, and of law as a whole, as a stabilizing factor in international development and in domestic relations. The success of the Decade depended on the practical orientation given to activities undertaken in connection with it. It was encouraging to see that increasing numbers of States and international organizations were taking part in those activities.

14. During the final year of the Decade the international community would celebrate the centenary of the first International Peace Conference, the fiftieth anniversary of the Geneva Conventions for the Protection of War Victims and the twenty-seventh International Conference of the Red Cross and Red Crescent, a movement which was playing a remarkable role in the codification and progressive development of international humanitarian law. To pay tribute to the accomplishments of the past, Mr. Boris Yeltsin, President of the Russian Federation, in his address to the fiftieth session of the General Assembly, had proposed the convening of a third International Peace Conference in 1999. That initiative took account of other related proposals, particularly those made by the Movement of Non-Aligned Countries. The proposed conference was not an end in itself; it should afford an opportunity for a comprehensive review of the progress made by humanity over the past 100 years, and an examination of the current situation and prospects for cooperation to enable the international community to meet the challenges it was facing on the eve of the twenty-first century.

15. As shown by the preliminary informal discussions held by the representatives of the Russian Federation, the idea had attracted wide support. With that in mind, the Russian Federation, together with the Netherlands, which had hosted the 1899 and 1907 International Peace Conferences, had submitted to the Working Group of the Sixth Committee a draft resolution entitled "1999 action dedicated to the centennial of the first International Peace Conference and to the closing of the United Nations Decade of International

Law", the operative part of which made no mention of the third International Peace Conference in order not to prejudge matters which would have to be agreed with the representatives of the States concerned, and with scholars and non-governmental organizations. However, appropriate instructions for the two sponsoring Governments were included.

16. It would be necessary to reach agreement on the agenda, which would have to be acceptable to all for the conference to be successful; among its objectives should be the improvement of "technologies of peace". Although countries in different regions had their own views as to the priorities for cooperation aimed at strengthening peace and its legal foundations, it was essential to find a universal common denominator for the safeguarding of peace. There was enough time to agree on all the issues and to make preparations for the conference. The ministries of foreign affairs of the Russian Federation and the Netherlands would very shortly be beginning intensive consultations with a view to formulating proposals which would be acceptable to all. It was also hoped that the informal group of supporters of the initiative would begin functioning as soon as possible. His Government considered that the conference must be an important event leading to far-reaching and tangible results. Various views had been advanced on that issue, including the view that it would be better for activities to take place within the overall framework of the third International Peace Conference, including one or more special sessions of the General Assembly and various scientific or other meetings at The Hague and/or St. Petersburg. It had also been pointed out that the activities could be not only of a legal nature, but also political and philosophical. His delegation noted with interest and respect the ideas put forward, and hoped that its proposal would be accorded similar treatment.

17. Mr. dos SANTOS (Mozambique) noted that the Decade was accomplishing most of its main objectives, set out in General Assembly resolution 44/23 of 17 November 1989, the broad scope of which demonstrated the paramount importance of the Decade and its valuable contribution to the maintenance of international peace and security. The report of the Secretary-General (A/51/278 and Add.1) was a clear demonstration of the commitment to those objectives of the United Nations, Member States, and international organizations and institutions. His delegation expressed its gratitude to all those who had taken part in the activities of the third term of the Decade, such as the United Nations Congress on Public International Law, which had been the most noteworthy event; mention should also be made of the advances made by the Treaty Section of the Office of Legal Affairs in its programme of computerization of the multilateral treaties deposited with the Secretary-General and of the United Nations Treaty Series, and efforts towards the progressive development and codification of international law. He also commended the Working Group, which had, through its tireless efforts and dedication, made possible most of those achievements.

18. Mozambique had always attached paramount importance to international law as the most appropriate means of regulating international relations and maintaining peace and security. His delegation therefore also recognized the importance of the Decade for the dissemination of international law, the acceptance of its general principles, its progressive development and codification, and for the promotion of methods for the peaceful settlement of disputes. He also believed that international cooperation would succeed only if all actors were guided by

universally accepted and agreed principles, norms and rules. He reaffirmed his delegation's intention to cooperate with Member States and relevant institutions in carrying out the activities of the programme for the final term of the Decade. It would be appropriate to mark the conclusion of the Decade with a major event, and his delegation therefore welcomed the proposal of the Netherlands and the Russian Federation as a basis for discussion.

19. Mr. WANG Chengjun (China) paid a tribute to the States, international organizations and institutions, and individuals who had contributed to the success of the programme for the third term of the Decade. In that connection, he drew particular attention to the United Nations Congress on Public International Law, which had played such an important role in promoting the teaching, study, dissemination and appreciation of international law, as well as acceptance of and respect for its principles and their progressive development and codification. Another important event had been the establishment of the International Tribunal for the Law of the Sea, which would be used by the international community for the peaceful settlement of disputes.

20. His delegation had carefully studied the draft programme for the final term and felt that it reflected the aspirations of the international community with respect to the Decade, and could therefore be the basis for discussion. The maintenance of international peace and security was the basis and guarantee of the success of the programme of the Decade, as well as the ultimate goal of its activities. It was therefore imperative that Member States should uphold justice and equity and conduct their relations in accordance with international law and with the purposes and principles of the Charter of the United Nations, including those concerning respect for the sovereignty and equality of States, non-interference in the internal affairs of other States, and peaceful coexistence. One way of promoting respect for and acceptance of those principles was to encourage States to ratify or accede to multilateral conventions concerning the codification and progressive development of international law.

21. In elaborating new international treaties, the realities and expectations of the international community should be taken into account; more importantly, the universal participation of States and of developing countries in particular should be encouraged. While the jurisdiction of the International Court of Justice should be based on States' consent, its role should be strengthened by encouraging States to accept its jurisdiction in disputes, for instance through special agreements or dispute settlement clauses contained in treaties.

22. After having suffered the scourge of two world wars and of various armed conflicts, mankind cherished peace more than ever before and the settlement of international disputes through peaceful means had become a fundamental principle of contemporary international law. As a result, international law, which served as a norm for guiding, adjusting and regulating the relations and behaviour of States, had been constantly enriched and improved. There had also been intensive international legislative activities. He hoped that, with the implementation and follow up of the programme for the final term of the Decade, new progress would be achieved and that 1999, the year in which the centenary of the first International Peace Conference would be celebrated and the last year of the Decade, would be an important landmark in the history of mankind and of

the development of international law. Some countries and international organizations were considering a series of significant commemorative activities for 1999, including the convening of the third International Peace Conference. His delegation was ready to join other countries in further exploring that possibility. China had participated actively in the activities of the Decade, including sponsoring two seminars in Beijing, and would spare no effort to contribute to the successful conclusion of the Decade.

23. Mr. SYARGEEU (Belarus) said that his country had always supported the main objectives of the Decade outlined in General Assembly resolution 44/23 of 17 November 1989. By promoting the acceptance of and respect for the principles of international law, the Decade would contribute a historical milestone and would encourage the recognition of international law as one of the most important institutions of mankind. At the current session of the General Assembly, the international community was considering ways and means of implementing the Decade's programme. Belarus, which had always stressed the need to concentrate efforts on concrete measures and practices, was pleased to note that such was the prevailing trend, as eloquently stated by the Secretary-General in his report (A/51/278 and Add.1). In that regard, he wished to highlight the holding of the United Nations Congress on Public International Law, in which his delegation had participated and which had made a useful contribution to the strengthening of the rule of international law. He urged the Secretary-General to do his utmost to ensure that the valuable theoretical and practical material presented at the Congress would be made available to Member States.

24. His country continued to implement the Decade's programme relating inter alia to accession to international multilateral treaties. His Government had recently signed the Convention on the Safety of United Nations and Associated Personnel, ratified the Chemical Weapons Convention and the amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer and would soon sign the Convention on Independent Bank Guarantees and Stand-by Letters of Credit. It was also addressing the legal issues pertaining to the succession of Belarus to the treaties entered into with the former Soviet Union. That was a considerable endeavour which once again highlighted the importance of international cooperation in international law, including accession to international legal instruments.

25. His Government was trying to encourage the teaching, study, dissemination and wider appreciation of international law. The network of public and private higher education institutions that offered courses in international law had been expanded and postgraduate courses were offered in that subject area at the State University and at the Academy of Sciences. There was a publication entitled "Current problems of international law" and relations of cooperation had been established between national and foreign universities.

26. His delegation welcomed the Secretary-General's efforts to establish an electronic data base on international treaties. It was also important to inform Member States periodically about the activities undertaken by the International Committee of the Red Cross (ICRC) with regard to the protection of the environment in times of armed conflict. The creation by ICRC of an advisory and information unit on international law, and the preparation of a manual on the

legal aspects of domestic and international armed conflicts should be supported to the extent possible.

27. His delegation endorsed the view that States themselves must decide the areas of priority in planning the activities of the following term of the Decade. It endorsed the initiative to hold the third International Peace Conference in 1999, and fully supported and intended to co-sponsor the draft resolution submitted by the Netherlands and the Russian Federation. It would continue to contribute towards the achievement of the Decade's objectives.

28. Mr. KERMA (Algeria) said that the United Nations Congress on Public International Law held in March 1995 had marked an important phase in the implementation of the Decade's programme. Its results had contributed to the reflection on the Decade's main objectives as well as to the dissemination of international law. In view of the importance of international law to the maintenance of international peace and security, its philosophy and implementation had to be universal in nature. Therefore, a more effective participation of developing countries in the progressive development of international law and its codification must be guaranteed. Moreover, the elaboration of legal norms must reflect developments in the international situation and take into account the interests and concerns of more countries.

29. The international political situation was propitious to the settlement of disputes through peaceful means, as confirmed by the tremendous increase in the volume of work of the International Court of Justice. The Court must be given more resources. In that regard, it was absolutely necessary to make progress in the codification of international law and to give more thought to its development in order to guarantee its pre-eminence.

30. His Government was fully aware that the teaching, study, dissemination and wider appreciation of international law helped to promote its pre-eminence in international relations; for that reason, it was promoting the teaching of international law and other important subjects at the university. Developed and developing countries should cooperate with respect to training and research in that field.

31. Lastly, his delegation took note with great interest of the proposal put forward by the Netherlands and the Russian Federation to organize a peace conference in 1999.

32. Mr. KULYK (Ukraine) said that the Decade's programme should lead to a genuine democratization of international relations, namely, the creation of an atmosphere in which all States strictly observed the fundamental principles of international law.

33. His delegation was looking forward to the implementation of the fourth programme of the Decade which, in its view, should not be a prerogative of the Sixth Committee or of the United Nations; rather, leading international and national law associations, national committees for the United Nations Decade of International Law, universities and other academic institutions, as well as appropriate non-governmental organizations and associations, should also be involved in that process. Such institutions, in close collaboration with Member

States, could organize, coordinate and contribute to the financing of conferences and seminars. Moreover, greater use should be made of the Internet in the implementation of the programme, since that would contribute not only to the technologically advanced organization of the process but also to the wider dissemination and appreciation of international law. In that regard, the positive achievements of the United Nations Congress on Public International Law held in 1995 should not be forgotten.

34. Ukraine welcomed the proposal of the Netherlands and the Russian Federation to draft a programme for the celebration of the centennial of the first International Peace Conference and the closing of the United Nations Decade of International Law. However, that programme must consist of something more than mere commemorative activities and should be devoted mainly to promoting the purposes of the Decade, above all the strengthening of world peace and security, and full compliance with international law and its progressive development. Furthermore, those activities should not be limited to the consideration of international or inter-State problems, but should also include a thorough analysis of such issues as the contemporary concept of self-determination and its practical application in the context of the disintegration and integration of States; the creation of a special status providing legally binding international security guarantees for States that abandoned nuclear weapons; the succession of States, including military aspects; the legal regulation of sustainable development; and the control of international terrorism from a global perspective.

35. Lastly, special attention should be paid to the legal aspects of economic security, especially the elaboration of norms which would prevent States, in their international relations, from resorting to the threat or use of unilateral economic measures with a view to achieving political gains, in violation of international law.

36. Mr. VAISSOV (Kazakstan) said that his Government supported the objectives of the United Nations Decade of International Law and would carry them out at the national level. The Constitution of Kazakstan recognized the primacy of international law over domestic law. For example, in relation to the important problem of international terrorism, Kazakstan had acceded in 1996 to the International Convention against the Taking of Hostages, of 17 December 1979, and to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 14 December 1973. Kazakstan's accession to international treaties was an orderly and gradual process which depended not only on the priorities of domestic and foreign policy but also on the prevailing socio-economic conditions and the existence of appropriate conditions for the effective implementation of treaties.

37. With regard to its domestic law, Kazakstan had approved State programmes on legal reform, crime control, and control of drug-trafficking, which were all based on the principles of international law. The State programme on legal reform envisaged a number of measures to provide legal training to citizens and improve the teaching of law. Almost all the laws adopted in Kazakstan had been reviewed by specialists from competent international organizations, particularly

the World Bank, a body which had contributed decisively to the formulation of the programme on legal reform.

38. The dissemination through the Internet of the Multilateral Treaties Deposited with the Secretary-General and the United Nations Treaty Series was a commendable undertaking by the Secretariat.

39. With regard to legal cooperation among States, Kazakstan was currently preparing various draft bilateral, multilateral and international treaties, including a treaty between the Republic of Kazakstan and the Russian Federation on simplifying the regime for the acquisition and loss of nationality and a draft convention on the legal status of the Caspian sea, which was being negotiated by the coastal States and had been drafted by Kazakstan.

40. It was also necessary to consider in more detail the draft articles on international liability for injurious consequences of acts not prohibited by international law, the draft convention on the law of the non-navigational uses of international watercourses, the draft statute for an international criminal court, and various aspects of the law of treaties.

41. Kazakstan believed that it would be very useful to exchange information, in the Committee, on measures adopted in implementation of the programmes of the Decade at the national, regional and multilateral levels in order to determine the modalities of future cooperation in that sphere.

42. Mr. DANIELL (South Africa) said that South Africa continued to support and promote the full achievement of the objectives of the United Nations Decade of International Law, an increasingly important undertaking. The new Constitution of 1996, which would enter into force once the Constitutional Court had approved it, contained extensive provisions regarding the application of international law in South African domestic law, for example a provision that the negotiating and signing of all international agreements was the responsibility of the national executive. The Constitution established the basic principle that international agreements would bind South Africa only once they had been approved by both houses of Parliament. However, international agreements which had been entered into by the national executive and were of a technical, administrative or executive nature, or did not need ratification or accession, would not need Parliamentary approval but would only need to be tabled in Parliament within a reasonable time. Non-self executing treaties or provisions would need to be enacted into law in order to be domestically enforced in South Africa.

43. The new Constitution provided that all the norms of customary international law were binding on South Africa in so far as they were consistent with its Constitution. In addition, the courts should give preference to interpretations of legislation which were consistent with international law.

44. The Constitution contained a bill of fundamental human rights which coincided with internationally accepted human rights standards; when interpreting it, all courts or forums must have regard for international law.

45. The Constitution contained governing principles for national security which accorded with international law; the security forces were constitutionally obliged to act in accordance with those norms. The South African Defence Force was also required to comply with the Constitution and the principles of international law in protecting the nation. Furthermore, in accordance with the Constitution, the Defence Force and the police services could be employed in fulfilment of an international obligation.

46. In 1996 South Africa had acceded to many multilateral conventions, including: the Convention on the Elimination of All Forms of Discrimination against Women; The African Charter on Human and Peoples' Rights; the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To have Indiscriminate Effects; the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; the Convention and the Protocol relating to the Status of Refugees; the Convention of the Organization of African Unity governing specific aspects of refugee problems in Africa; the Protocol Additional to the Geneva Conventions of 12 August 1949, relating to the protection of victims of international armed conflicts (Protocol I); the Protocol Additional to the Geneva Conventions of 12 August 1949, relating to the protection of victims of non-international armed conflicts (Protocol II), and the Convention on Biological Diversity.

47. His Government regarded cooperation with Africa as a whole and with the countries of southern Africa in particular as a priority and had therefore signed a protocol on shared watercourse systems in the Southern African Development Community (SADC) region and concluded agreements on double taxation, extradition, the fight against crime, and cooperation in agriculture.

48. In keeping with its support for the early creation of an International Criminal Court, South Africa had participated in the second regional workshop on the International Criminal Court, which had been held in July 1996.

49. During the previous year, the South African Branch of the International Law Association (SABILA) had established a number of working groups dealing with such topics as the final version of the new Constitution of South Africa and its international law provisions; the International Criminal Court; the law of the sea; liability for harm caused to the environment; self-determination; arms control and disarmament; international trade; and the development of international customary law.

50. Many South African universities, as well as the South African Naval College and the South African Air Force, offered advanced courses in various branches of international law.

51. South Africa welcomed the efforts by the Treaty Section to provide electronic access to multilateral treaties deposited with the Secretary-General. Internet access to the United Nations Treaty Series and to all United Nations documents would certainly promote greater understanding of the work of the Organization. He therefore strongly supported the draft resolution which Australia had introduced the previous 18 November. Finally, South Africa supported the initiative taken by the Russian Federation and the Netherlands

with respect to the activities planned for 1999 to commemorate the one hundredth anniversary of the first International Peace Conference.

52. Mr. CASTELLÓN (Nicaragua) said that he would describe the activities carried out by the Central American Integration System (SICA), within the framework of the Decade.

53. SICA had been established on 13 December 1991, the date of the signing of the Tegucigalpa Protocol (A/46/829-S/23310), which had amended the Charter of the Organization of Central American States (ODECA). The objectives of SICA included the strengthening of the legal security of relations among member States, the peaceful settlement of disputes and respect for the principles and norms of the Charter of the United Nations and the Charter of the Organization of American States (OAS). The permanent judicial organ of SICA is the Central American Court of Justice, whose predecessor had been the Central American Court of International Justice, which had been established in 1907 in Cartago, Costa Rica. That Court had been the first tribunal of an internationally binding character before which individuals could bring suits against States. The Central American Court of Justice, with headquarters in Nicaragua, had begun to function on 12 October 1994 with the participation of three member States: Nicaragua, El Salvador and Honduras. Its assigned jurisdiction excluded any other court and, in addition to disputes between States, it heard cases between natural or legal persons resident in the region and Governments or organs of SICA. The Statute of the Court had been amended on 4 October 1995. In two years of work, the Court had received ten requests for advisory opinions (four of them from the Central American Judicial Council in its capacity as the Central American Court of Justice ad interim) and two cases of litigation. That rate of work was proportionately greater than that of other similar courts: for example, the Court of Justice of the European Communities (Luxembourg) had issued its first ruling after seven years of operation; the Inter-American Court of Human Rights had issued 26 rulings in 15 years and the Andean Court of Justice (Cartagena Agreement) had handed down 42 decisions in 12 years.

54. The Central American Court of Justice had sponsored seminars, congresses and other activities in the region, such as, for example, the International Congress on Justice, Integration and Human Rights, held in Montelimar (Nicaragua) from 5 to 8 March 1996 and co-sponsored by the Supreme Court of Nicaragua and the United Nations Development Programme (UNDP); a seminar on the modernization of agrarian and environmental legislation in Central America, which had been held in Granada (Nicaragua) on 11 and 12 April 1996, and a seminar on the observance of international norms, which had been held in Granada from 3 to 5 October 1996 under the co-sponsorship of OAS.

55. The seventh meeting of the Supreme Courts of Justice of Central America, which had been held in Guatemala on 16 and 17 July 1996, had decided to establish the Centre of Juridical Studies on Integration and had confirmed that Costa Rica would be the headquarters of the Centre of Studies and Judicial Training of Central America.

56. On the proposal of Nicaragua, the Framework Treaty on Democratic Security in Central America had been signed in San Pedro Sula (Honduras). The Treaty's basic principles were democracy and the strengthening of institutions and the

rule of law, rule by governments elected by universal suffrage and by free and secret ballot, and absolute respect for human rights in the States of the region.

57. Nicaragua welcomed draft resolution A/C.6/51/L.6, which had originally been presented by the Russian Federation and the Netherlands. It had joined the sponsors of that draft resolution on the understanding that the preparatory work for the programme of action would include the possibility of holding in 1999 the third international peace conference, which had already been recommended in 1989 by the Movement of Non-Aligned Countries, and that it would be the best possible tribute to mark the one hundredth anniversary of the first Hague Peace Conference, in 1899.

ORGANIZATION OF WORK

58. Ms. CUETO MILIÁN (Cuba) drew the Bureau's attention to the fact that, during the informal consultations, the legitimate objective of completing the Committee's work within the time limit set had been invoked as grounds for denying members their right to speak. The disrespectful manner in which it had been done threatened the civil and ethical conduct which had always characterized the work of the Sixth Committee.

59. The CHAIRMAN expressed his regret over the incident and said that the necessary steps would be taken to ensure that all delegations could express themselves freely, independently and with dignity.

60. Mr. LALLIOT (France) said that the arrangements which had been made for informal consultations of a Working Group of the Sixth Committee to be held in a conference room with capacity for only 12 persons and without interpretation services were unacceptable. The failure to provide interpretation services was a violation of the fundamental rules of multilingualism, which had been enshrined in numerous resolutions of the United Nations as a corollary to the sacrosanct principle of the universality of the Organization and equality of States. In particular, in paragraph 9 of its resolution 50/11, of 2 November 1995, the General Assembly urged the delegations of Member States and the Secretariat to endeavour to avoid holding informal meetings without interpretation. The French delegation would not consider as valid any commitment, decision or recommendation that was adopted in a meeting held without interpretation, and reserved the right to reopen their consideration in plenary meeting. The commendable desire to complete work within the deadline set could not be realized at any price.

61. The CHAIRMAN said that he was particularly sensitive to the question of multilingualism and would seek an adequate and satisfactory solution to the situation that had arisen, which had been the result of very special circumstances.

62. Mr. LEE (Secretary of the Committee) said that the secretariat always carried out the instructions of the Chairman of the Committee or of the Working Group concerned, as well as instructions emanating from the coordinating meetings of Committee Chairmen. In the case before the Committee, a small room had been requested for the holding of an informal meeting.

63. The CHAIRMAN said that the Secretariat had been entrusted with the task of finding an appropriate solution that would be acceptable to all delegations.

The meeting rose at noon.

UNITED NATIONS

General Assembly

FIFTY-FIRST SESSION

Official Records

SIXTH COMMITTEE
45th meeting
held on
Thursday, 21 November 1996
at 10 a.m.
New York

SUMMARY RECORD OF THE 45th MEETING

Chairman: Mr. ESCOVAR-SALOM (Venezuela)

CONTENTS

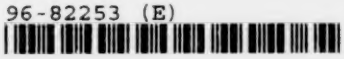
AGENDA ITEM 142: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of the publication* to the Chief of the Official Records Editing Section, room DC2-794, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

Distr. GENERAL
A/C.6/51/SR.45
22 August 1997
ENGLISH
ORIGINAL: SPANISH

96-82253 (E)



The meeting was called to order at 10.05 a.m.

AGENDA ITEM 142: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (A/51/215 and Corr.1 and Add.1)

1. Ms. SUCHARIPA-BEHRMANN (Austria) said that the international community had attempted to prohibit the use of force as a means of solving international disputes by eliminating it from the scope of the legally admissible conduct of States and declaring it to be a particularly grave delict which could even be seen as a violation of peremptory norms of international law. Nevertheless, it could not be denied that those efforts had failed because States had resorted to that outlawed method again and again. As a result, rules of humanitarian law had been elaborated, which at least tried to alleviate the horrors of armed conflict and to protect the victims thereof. The Geneva Conventions of 1949 and the Protocols additional thereto were of fundamental importance in that regard. The problem was not that there were no rules of humanitarian law but that they were not fully implemented.

2. Humanitarian law not only covered international conflicts but also extended to conflicts of a non-international character, the incidence of which had recently increased dramatically. It was vital that fundamental standards of humanity should be respected in that second category of conflicts, which gave renewed importance to Protocol II dealing with non-international armed conflicts. A stricter adherence to its provisions would constitute major progress towards benefiting the victims of such conflicts.

3. One of the most important achievements of Protocol I had been the creation of the International Humanitarian Fact-Finding Commission. Even though its competence had been recognized by 49 States, no case had thus far been submitted to the Commission. States should bear in mind that the Commission's primary task was not only to establish facts, but also to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and the Protocol. The Commission's task was not to judge and condemn either party but to assist States in achieving a situation in which basic principles of humanity were respected. In addition, the existence of the Commission rendered superfluous the establishment of other bodies entrusted with similar tasks. Her Government therefore urged States to accept the competence of the Commission and adhere to the Additional Protocols and to the rules of humanitarian law in general.

4. Ms. GAO Yanping (China) said that the four Geneva Conventions of 1949 and the two Protocols additional thereto relating to the protection of the victims of armed conflicts, which were the international legal instruments with the largest number of State parties, had made important contributions to protecting the legitimate rights and interests of the victims of war and civilians during armed conflicts, and to reducing and mitigating the impact of such conflicts on the wounded and prisoners of war in the armed forces and the civilian population. For that reason, her Government had accepted the Conventions and their Additional Protocols and had implemented the relevant provisions thereof in good faith, since it firmly believed that every State was inescapably bound

to respect and comply with the norms of humanitarian law. Her delegation appealed to States to accede to those instruments as soon as possible and to expedite their domestic constitutional procedures to that end. Although all members of the international community must combine their efforts to promote respect for and compliance with international humanitarian law, the most effective way of protecting the victims of armed conflicts was for each nation to renounce the use and threat of force and to seek peaceful solutions to its disputes in accordance with the universally accepted principles of international law and the purposes and principles of the Charter of the United Nations.

5. The International Federation of the Red Cross and Red Crescent Societies had, since its establishment as an international, humanitarian, non-governmental, non-political and independent organization, made contributions throughout its history to protecting the victims of armed conflicts and promoting world peace through its wide-ranging international humanitarian activities. At its 26th session in December 1995, the Assembly of the International Committee of the Red Cross had discussed such issues, including, in particular, the protection of the most vulnerable groups such as women and children, at length. Such activities were praiseworthy and should be strengthened. Her delegation hoped that, as a result of the present discussion, more countries would become parties to the Geneva Conventions of 1949 and their two Additional Protocols so that the norms of international humanitarian law would be universally accepted and applied.

6. Mr. Kak Soo SHIN (Republic of Korea) said that 40 years previously his country had been ravaged by a war which had inflicted enormous casualties and untold suffering on innocent civilians. Since then, his Government had attached great importance to international humanitarian law and firmly believed that the 1949 Geneva Conventions and the 1977 Protocols had made and would continue to make an enormous contribution to the easing of human suffering in armed conflicts both within and between States. Despite the end of the cold war, many States had witnessed internal conflict fuelled by ethnic, racial, cultural or religious hatred; internal conflicts of that sort were much more damaging to society than international conflicts. In such cases, the role of international humanitarian law assumed heightened significance. His delegation was pleased to note that the number of States parties to Protocols I and II had increased, although adherence was far from universal. His Government urged States to accede to the Protocols as soon as possible, thereby providing those instruments with a virtually universal character similar to that of the 1949 Geneva Conventions. The more universal the two Protocols became, the stronger their normative force would be. At the same time it was essential to promote wider dissemination and more effective implementation of the Protocols at the domestic level. No matter how many States became parties to the Protocols, the latter would be little more than scraps of paper unless their provisions were fully implemented. His delegation hoped that the relevant resolution would reflect that idea in the clearest possible manner.

7. His Government had been one of the original signatories to the two Protocols and, under his country's Constitution, their provisions had binding force in the Republic of Korea without requiring separate domestic legislation. Moreover, civilian and military criminal law and the National Red Cross Law could be simultaneously applied to offences covered under the two Protocols.

His Government had invested significant material and human resources in educating members of the armed forces about the letter and spirit of the two Protocols, and had revised the code of conduct for members of the Korean military accordingly. In addition, international humanitarian law had been made a compulsory subject in military education at all levels. Most of the dissemination work had been done by the National Red Cross in close cooperation with academic and government circles. In 1973, the National Red Cross had launched the Humanitarian Law Institute which, in collaboration with the Humanitarian Law Advisory Committee, had played a pivotal role in promoting the study and dissemination of international humanitarian law. In reaffirming its commitment to the norms and principles of international humanitarian law, which were a bastion of human conscience that safeguarded human rights during armed conflicts, his Government reiterated its readiness to fully cooperate with the international community in the dissemination of the two Protocols of 1977.

8. Mr. BAENA SOARES (Brazil) said that international humanitarian law had been acquiring increasing relevance for the work of the United Nations. While the increase in the number of States parties to the Protocols Additional to the Geneva Conventions of 1949 was cause for satisfaction, the General Assembly must renew its appeal to those States that had not yet done so to become parties at the earliest possible date. The Assembly should also call upon States to make the declaration accepting the competence of the International Fact-Finding Commission. Unfortunately, wider acceptance of those legal instruments would not automatically result in respect for the standards of behaviour which they prescribed and still left open the question of their practical implementation. The many recent examples of violations of those standards highlighted the importance of continued international efforts to promote respect for humanitarian law.

9. Brazil was party to all the instruments in the field of international humanitarian law and had made the declaration referred to in the paragraph above. It supported the recommendations of the International Conference of the Red Cross and Red Crescent, which had been held in Geneva in January 1996, and, in accordance with those recommendations, it had been promoting the dissemination of the rules of humanitarian law at the national level through civilian and military programmes. It was also worth noting that, with the assistance of the International Committee of the Red Cross, the military personnel sent to participate in United Nations peacekeeping operations were trained to respect humanitarian norms. The participation of a Brazilian expert in the International Fact-Finding Commission demonstrated Brazil's commitment to contributing to the examination of alleged violations of international humanitarian law and to the restoration of the rule of law. As a strong opponent of the use of force in international relations, Brazil would continue to do its utmost, at the regional and international levels, to promote the settlement of disputes through diplomacy and other peaceful means. Respect for international humanitarian law remained essential, given the stark realities which placed the elimination of armed conflict beyond reach for the foreseeable future. The international community must therefore continue to count on the invaluable contribution of the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies and find ways to ensure adequate protection of victims of armed conflicts.

10. Mr. SALAND (Sweden), introducing the draft resolution on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (A/C.6/51/L.9), which was sponsored by Australia, Austria, Canada, Chile, Denmark, Finland, Iceland, New Zealand, Norway, Romania, Russian Federation, Spain and Sweden, said that the purpose of the draft resolution was to stress the importance of the existing body of international humanitarian law and the need to make its implementation more effective and to increase the already wide acceptance of the two Protocols Additional to the Geneva Conventions of 1949. The new elements of the draft resolution related to the holding in late 1995 of the very important Twenty-sixth International Conference of the Red Cross and Red Crescent, whose success was reflected in the last preambular paragraph and in operative paragraphs 4 and 5 of the text. In paragraph 4, the draft noted with satisfaction that the Twenty-sixth International Conference had endorsed the Final Declaration of the International Conference for the Protection of War Victims. In paragraph 5, it further noted that the Twenty-sixth International Conference had also endorsed the recommendations aimed at translating the Final Declaration into concrete measures, including the recommendation that the Depositary of the Geneva Conventions of 1949 should organize periodic meetings of States parties to those Conventions to consider general problems regarding the application of international humanitarian law.

11. Mr. SCHELLENBERG (Observer for Switzerland) said that, although the number of States parties to the Protocols Additional to the Geneva Conventions of 1949 had increased, the Protocols' provisions were frequently violated in the conflicts that took place in different parts of the world. Thus, three quarters of all States were obliged to observe very detailed norms for the protection of victims of armed conflicts even as the most fundamental norms of humanitarian law were being flouted. The Twenty-sixth International Conference of the Red Cross and Red Crescent had solemnly reaffirmed that all States were under an obligation to respect the principles and norms of humanitarian law and that States parties to the Geneva Conventions and the Protocols Additional thereto should ensure respect for those instruments.

12. In the field of humanitarian law, it was now more important than ever before to expand and strengthen the monitoring mechanisms. In that connection, the creation of the International Tribunals for the former Yugoslavia and Rwanda marked an important step forward. His delegation hoped that the Draft Statute for an International Criminal Court would be adopted as early as possible.

13. Finally, Switzerland wished to recall the existence of the International Fact-Finding Commission, which was an invaluable instrument for the impartial investigation of allegations of violations of humanitarian law and urged States that had not yet done so to recognize the competence of that Commission.

14. Mr. ZIMMERMANN (Observer for the International Committee of the Red Cross) said that, by 8 June 1997, the date of the twentieth anniversary of the adoption of the Protocols Additional to the Geneva Conventions of 1949, universal recognition of those treaties should have been achieved, especially in view of the proliferation of armed conflicts.

15. Among the mechanisms expressly designed to promote the application of humanitarian law, special mention should be made of the International Fact-Finding Commission, which had been established pursuant to article 90 of Protocol I and whose competence must be recognized by a larger number of States before it could become fully effective. Respect for international humanitarian law must also be guaranteed through its implementation in peacetime. It was particularly important, therefore, that war crimes should not go unpunished and that the provisions of the Geneva Conventions and the Additional Protocols thereto, which provided for sanctions in the event of grave breaches of humanitarian law, should be incorporated into national legislation. Respect for the emblems of the Red Cross and Red Crescent needed to be strengthened and measures taken to punish any misuse thereof. Systematic efforts must be made to spread knowledge of humanitarian law, especially among those bearing weapons, and instruction in humanitarian rules must be adapted to the different social strata of populations.

16. The International Committee of the Red Cross believed that it would be advisable in the future to extend the scope of the agenda item to cover the whole body of international humanitarian law, and especially the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, of 1980, and the four annexed Protocols, including the Protocol dealing with the scourge of anti-personnel mines, as well as the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.

The meeting rose at 10.50 a.m.